

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MARQUIS HATTON §
v. § CIVIL ACTION NO. 6:07cv364
TOMMY PHARIS §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON MOTION FOR DEFAULT JUDGMENT

The Plaintiff Marquis Hatton, proceeding *pro se*, filed this civil rights lawsuit complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Magistrate Judge ordered the Defendant Tommy Pharis to answer the lawsuit. The deadline for the answer was December 14, 2007, and Pharis filed his answer on December 13, 2007. The certificate of service on the answer shows that it was sent to the Gib Lewis Unit, where Hatton was housed when he filed the lawsuit; however, Hatton had been moved to the McConnell Unit.

On January 4, 2008, Hatton filed a motion for default judgment. On February 21, 2008, the Magistrate Judge issued a Report recommending that the motion for default judgment be denied, because an answer had in fact been filed. The Magistrate Judge also recommended that counsel for the Defendants send Hatton another copy of the answer.

Copies of the Report were sent to the parties, return receipt requested, but no objections have been received; accordingly, the parties are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error,

from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 20) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for a default judgment (docket no. 17) is DENIED. Finally, it is

ORDERED that counsel for the Defendant shall send to the Plaintiff another copy of the Defendant's answer, if this has not already been done.

So ORDERED and SIGNED this 31st day of March, 2008.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**